financial institutions. FinCEN therefore does not believe that application of section 352 requirements to attorneys in connection with activities relating to real estate closings or settlements raises issues of, or poses obligations inconsistent with, the attorney-client privilege.[9] In fact, attorneys already must exercise due diligence when they receive funds from clients where there is an indication that the funds may be tainted, and cannot simply accept funds without the risk that their fees will be subject to forfeiture.[10] When engaging in conduct subject to anti-money laundering regulations, attorneys, like other professionals, should take the basic steps contemplated by section 352 to ensure that their services are not being abused by money launderers.

FinCEN accordingly seeks comment on which participants in the real estate closing or settlement process are in a position where they can effectively identify and guard against money laundering in such transactions. Information and comment may, among other things, address both the extent to which various participants have access to information regarding the nature and purpose of the transactions at issue and the importance of the participants' involvement to successful completion of the transactions. Information and comment should focus on the real estate sector in general and on various transaction types. FinCEN is particularly interested in receiving comments addressing commercial real estate transactions. Comments are welcome from those involved centrally in the real estate settlement process, *i.e.*, those who may act as an agent for all parties and are responsible for reviewing the form and type of payment, as well as being aware of the parties to the real estate transaction, and those who view their involvement as more peripheral.

3. Should Any Persons Involved in Real Estate Closings or Settlements Be Exempted From Coverage Under Section 352?

FinCEN also solicits comments regarding whether there should be an exemption for any category of persons involved in real estate closings and settlements. In this connection, FinCEN anticipates that persons that are already subject to separate anti-money laundering program rules (or that will be subject to separate rules) will not also be subject to the anti-money laundering rules for persons involved in real estate closings and settlements.[11] Comments regarding possible exemptions should be designed to enable FinCEN to evaluate whether the risk of money laundering through a category of persons is sufficiently small that a proposed anti-money laundering program rule could be crafted that would exempt the category while also providing adequate protection for the industry from the risks of money laundering. In addition, FinCEN wishes to make it clear that it does not intend to cover purchasers and sellers of their own real estate, although they, too, are ''persons involved in real estate settlements and closings.'' The question of exemption is specifically directed to real estate professionals, and those who trade in real estate on a commercial basis.

4. How Should the Anti-Money Laundering Program Requirement for Persons Involved in Real Estate Closings and Settlements Be Structured?

In applying section 352 of the Act to persons involved in real estate closings and settlements, FinCEN must consider the extent to which the standards for anti-money laundering programs are commensurate with the size, location, and activities of persons in this industry. FinCEN recognizes that while large businesses are involved in real estate closings and settlements, businesses in this industry may be smaller companies or sole proprietors. FinCEN thus seeks comment on any particular concerns these smaller businesses may have regarding the implementation of an anti-money laundering program.

FinCEN also recognizes that persons involved in real estate closings and settlements may have some programs in place to meet existing legal obligations, such as the requirement to report on Form 8300 the receipt of over $10,000 in currency and certain monetary instruments. These businesses may also have procedures in place to protect them against fraud. FinCEN therefore seeks comment on what types of programs persons involved in real estate closings and settlements have in place to prevent fraud and illegal activities, and the applicability of such programs to the prevention of money laundering.

III. Conclusion

With this ANPRM, FinCEN is seeking input to assist it in determining how to implement the requirements of section 352 with respect to persons involved in real estate closings and settlements. FinCEN welcomes comments on all aspects of a potential regulation and encourages all interested parties to provide their views.

IV. Executive Order 12866

This ANPRM is not a ''significant regulatory action'' for purposes of Executive Order 12866. It neither establishes nor proposes any regulatory requirements. Instead, it seeks public comment on a wide range of questions concerning the extent to which the anti-money laundering program mandates of section 352 of the USA Patriot Act should apply to persons involved in real estate closings and settlements.

Dated: April 3, 2003.

James F. Sloan,

Director, Financial Crimes Enforcement Network.

[FR Doc. 03–8688 Filed 4–9–03; 8:45 am]

BILLING CODE 4810–02–P

[9] The recent resolution by the American Bar Association opposing the imposition of suspicious activity reporting obligations on attorneys recognizes the distinction between anti-money programs and reporting requirements. *See* Task Force on Gatekeeper Regulation and the Profession, Report to the House of Delegates (available on *www.abanet.org/leadership/recommendations03/104.pdf*) (accepting the concepts of reasonable compliance training and due diligence to minimize risk of lawyers' involvement in illegal money laundering activity).

[10] *See U.S.* v. *Moffitt, Zwerling & Kemler, P.C.*, 83 F.3d 660 (4th Cir. 1996) (firm that ''tiptoed'' around the most pertinent questions regarding the source of fees received from drug dealer required to forfeit fees shown to be derived from proceeds of narcotics trafficking).

[11] For example, banks already must comply with anti-money laundering rules. *See* 31 CFR 103.120. Similarly, loan and finance companies fall within the definition of a financial institution under the BSA, and are currently being studied by FinCEN for inclusion in the anti-money laundering rules.

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[CGD08–03–007]

RIN 1625–AA09

Drawbridge Operation Regulation; Apalachicola River, River Junction, FL

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish a drawbridge operation regulation for the draw of the CSX Railroad swing bridge across the Apalachicola River, mile 105.9, at River Junction (near Chattahoochee), Florida. The regulation will allow for the bridge to be unmanned and remain closed during hours of infrequent traffic with

an advance notification requirement to open the bridge.

DATES: Comments and related material must reach the Coast Guard on or before June 9, 2003.

ADDRESSES: You may mail comments and related material to Commander (obc), Eighth Coast Guard District, 501 Magazine Street, New Orleans, Louisiana 70130–3396, or deliver them to room 1313 at the same address above between 7 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The Commander, Eighth Coast Guard District, Bridge Administration Branch maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying by appointment at the Bridge Administration Branch, Eighth Coast Guard District between 7 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. David Frank, Bridge Administration Branch, at the address given above or telephone (504) 589–2965.

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking (CGD08–03–007), indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know that they reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

Public Meeting

We do not now plan to hold a public meeting. However, you may submit a request for a public meeting by writing to the Commander, Eighth Coast Guard District, Bridge Administration Branch at the address under **ADDRESSES** explaining why a public meeting would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

Background and Purpose

The CSX swing bridge across the Apalachicola River, mile 105.9, presently opens on signal for the passage of vessels. The bridge owner has requested to change the operation regulations so that the bridge be required to open on signal only from 8 a.m. until 4 p.m. Monday through Friday. At all other times, the bridge would open on signal if at least four hours advanced notification is given. The request was made based upon a documented decrease in the number of requests for openings in the last three years. In 2000, the bridge opened 63 times for the passage of vessels. In 2001, the bridge opened 38 times for the passage of vessels. In the first five months of 2002, the bridge opened 15 times for the passage of vessels. Information gathered regarding the decrease in vessel movements indicates that the closure of a sand and gravel facility above the bridge and a prolonged drought are the main contributing factors. While water elevations may return to their pre-drought levels, there is presently no evidence that the number of requests for bridge openings will increase in the future due to limited industrial development along the waterway.

Discussion of Proposed Rule

The proposed rule will have no effect on the existing operation of the bridge between 8 a.m. and 4 p.m. Monday through Friday when the bridge will open on signal to accommodate marine traffic. At all other times the bridge will only open if four hours advance notice is provided. This change is proposed to reduce the financial burden on the drawbridge operator of maintaining bridge tenders at times that there is little or no vessel traffic.

Regulatory Evaluation

This proposed rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not ''significant'' under the regulatory policies and procedures of the Department of Homeland Security.

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS is unnecessary.

Prior to proposing this rule, the Coast Guard analyzed the bridge usage records and determined that requiring four hours notice during off peak periods would have minimal impact on commercial vessel traffic. This proposed rule allows vessels ample opportunity to transit this waterway during normal weekdays and with minimal notification at all other times.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this proposed rule would have a significant economic impact on a substantial number of small entities. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities. The proposed rule would affect the following entities, some of which might be small entities: the owners and operators of vessels requiring a vertical clearance of greater than 17.4 feet above Ordinary High Water and needing to transit the bridge outside of the 8 a.m. to 4 p.m. weekday time frame. The impacts to small entities will not be significant because of the limited number of openings required by these vessels.

This is not considered to have a significant impact on a substantial number of small entities.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this proposed rule would have a significant economic impact on it, please submit a comment (*see* **ADDRESSES**) explaining why you think it qualifies and how and to what degree this proposed rule would economically affect it.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the proposed rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the Bridge Administration Branch, Eighth Coast Guard District at the address above.

Collection of Information

This proposed rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520.).

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct cost of compliance on them. We have analyzed this proposed rule under Executive Order 13132 and have determined that this proposed rule does not have implications for federalism.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 or more in any one year. Though this proposed rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This proposed rule would not affect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This proposed rule is not economically significant and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

Indian Tribal Governments

This proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

We have analyzed this proposed rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a ''significant energy action'' under that order because it is not a ''significant regulatory action'' under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Environment

We considered the environmental impact of this proposed rule and concluded that, under figure 2–1, paragraph 32(e), of Commandant Instruction M16475.lD, this proposed rule is categorically excluded from further environmental documentation. This action is categorically excluded under paragraph 32(e) as it is for the purpose of promulgating an operation regulation for this drawbridge. A ''Categorical Exclusion Determination'' is available in the docket where indicated under **ADDRESSES.**

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

For the reasons set out in the preamble, the Coast Guard proposes to amend Part 117 of Title 33, Code of Federal Regulations, as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for Part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05–1(g); section 117.255 also issued under the authority of Pub. L. 102–587, 106 Stat. 5039.

2. § 117.258 is added to read as follows:

§ 117.258 Apalachicola River.

The draw of the CSX Railroad bridge, mile 105.9, at River Junction shall open on signal Monday through Friday from 8 a.m. until 4 p.m. At all other times, the bridge will open on signal if at least 4 hours notice is given.

Dated: March 27, 2003.

Roy J. Casto,

Rear Admiral, U.S. Coast Guard, , Commander, Eighth Coast Guard District.

[FR Doc. 03–8690 Filed 4–9–03; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[Region 2 Docket No. NY57–252, FRL–7480–4]

Approval and Promulgation of Implementation Plans; New York State Implementation Plan Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a revision to the New York State Implementation Plan (SIP) for ozone concerning the control of volatile organic compounds. The SIP revision consists of amendments to New York Codes, Rules and Regulations part 226, ''Solvent Metal Cleaning,'' part 235, ''Consumer Products'' and the adoption of new rule part 239, ''Portable Fuel Container Spillage Control.'' This SIP revision consists of control measures needed to meet the shortfall emissions reduction identified by EPA in New York's 1-hour ozone attainment demonstration SIP. The intended effect of this action is to approve control strategies required by the Clean Air Act which will result in emission reductions that will help achieve attainment of the national ambient air quality standard for ozone.

DATES: Comments must be received on or before May 12, 2003.

ADDRESSES: All comments should be addressed to: Raymond Werner, Chief, Air Programs Branch, Environmental Protection Agency, Region 2 Office, 290 Broadway, 25th Floor, New York, New York 10007–1866.

A copy of the New York submittals are available at the following addresses for inspection during normal business hours:

Environmental Protection Agency, Region 2 Office, Air Programs Branch, 290 Broadway, 25th Floor, New York, New York 10007–1866.

New York State Department of Environmental Conservation, Division of Air Resources, 625 Broadway, Albany, New York 12233.

FOR FURTHER INFORMATION CONTACT: Kirk J. Wieber, Air Programs Branch,